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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,957	04/08/2004	Howard G. Dolezal JR.	CGL020295US1	2273
38550 7590 04/29/2009 CARGILL, INCORPORATED P.O. Box 5624 MINNEAPOLIS, MN 55440-5624				
EXAMINER STULIL, VERA				
ART UNIT 1794		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

The Examiner for this application has changed to Vera Stulii (AU 1794).

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/13/2009 has been entered.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 5, 6, 9-25, 27, 34-39, 40-43, 50-52, 53-57 and 67-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calkins et al. (US 2002/0054941, pages 1-5) in view of Paterson et al (US 2003/0180439). Calkins et al discloses enhancing the tenderness of dark-cutting beef by treating with a composition including citric acid or a salt thereof in an amount as claimed by applicant (claims 23-25, 27) in order to obtain a pH as claimed by applicant (claims 12-16, 20). The treatment occurs by injection, marinating or spraying and is followed by packaging of the beef. Calkins et al. do not disclose treatment after onset of rigor mortis. Paterson et al discloses that certain treatments of meat were traditionally done pre-rigor mortis (sodium bicarbonate injection). Paterson et al further discloses that such pre-rigor treatment could be

performed "either pre-rigor mortis or post-rigor mortis" ([0024]). Since Paterson et al disclose performing a traditional pre-rigor treatment either pre-rigor mortis or post-rigor mortis", one of ordinary skill in the art would have been motivated to modify Calkins et al and to enhance the tenderness of dark-cutting beef by treating with a composition including citric acid or a salt in order to obtain a pH as recited post-rigor mortis as taught by Paterson et al.

In regard to claims 37-39, 42, 53 and 55, it is noted that dark-cutting meat typically has a pH as claimed by applicant (claim 37, 53). Tumbling meat in a treatment solution (claims 39, 55) and a drip/rest period are conventional techniques in the treatment of meat.

Claims 7, 26, 28, 33, 48, 49, 65 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calkins et al in view of Paterson et al (US 2003/0180439) and Komarik (3,526,521, Abstract and cols. 2-3). It would have been obvious to include GDL and sodium erythorbate (claims 7, 8, 26, 48, 49) in the treatment composition of Calkins et al to aid in curing the meat therein since it is well known to treat meat with GDL to lower the pH thereof and with sodium erythorbate to aid in curing, as evidenced by Komarik. The use of sodium acid sulfate as a meat acidulant (claim 28) is conventional.

Claims 29-32 and 45-47 and 62-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calkins et al in view of Paterson et al (US 2003/0180439) and Nakao et al (3,666,488, cols. 2-3). It would have been obvious to include a phosphate buffer (claims 29, 30, 45-47) in the treatment composition used in Calkins et al since it is well

known to treat meat with a composition including citric acid, as in Calkins et al, and a phosphate buffer, as evidenced by Nakao et al.

Claim 44 and 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Calkins et al in view of Paterson et al (US 2003/0180439) and Tracy et al (4,576,825, cols. 2-3) or Holdren et al (5,736,186, col. 6). It would have been obvious to encapsulate the citric acid used in Calkins et al since it is well known to treat meat with encapsulated citric acid, as evidenced by either Tracy et al or Holdren et al.

Response to Arguments

Applicant's arguments with respect to claims 1-3, 5-7, 9-16, 19-67 and 69-70 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VERA STULII whose telephone number is (571)272-3221. The examiner can normally be reached on 7:00 am-3:30 pm, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steve Weinstein/
Primary Examiner, Art Unit 1794

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